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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,673	12/03/2003	Jordan Cohen	112855.121 US3	5522
23483	7590	05/19/2009	EXAMINER	
WILMERHALE/BOSTON 60 STATE STREET BOSTON, MA 02109				DAO, MINH D
ART UNIT		PAPER NUMBER		
2618				
NOTIFICATION DATE			DELIVERY MODE	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/725,673	COHEN ET AL.	
	Examiner	Art Unit	
	MINH D. DAO	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 February 2009.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,4,5,9,11,13,14,16,18-28,30,31,46 and 47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,4,5,9,11,13,14,16,18-28,30,31,46,47 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Response to Arguments

1. In response to Applicant's remarks filed 02/18/90, page 7 regarding claim 1, that Shah and Carroll do not teach "a software switch which enables toggling back and forth between activation and deactivation states of the basic and enhanced features" as recited in newly amended claim 1. Examiner notes that Applicant did not comment on the teaching of Treyz in the remark. Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them. Therefore, Examiner assumes that Applicant agrees with the teaching of Treyz, in the office action dated 08/19/09 in which Treyz teaches a wireless communication system that can implement interaction of cellular communication system. The system is capable of providing user selections between voice recognition levels such as being able to select different languages to use during voice control (see col. 73, line 57 to col. 74, line 7. In this case, the computer 14, taking voice commands from the user to switch from a native language (basic feature) to another language such as a foreign language (enhanced feature), must have a processor programmed with instructions to perform the switching and translation as commanded by the user. This teaching of Treyz arrives at the newly added limitation of claim 1.).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 4, 5, 9, 11, 13, 14, 16, 18-28, 30, 31, 46, 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shah (US 6,029,065) in view of Carroll et al. (US 8,859,699) and further in view of Treyz et al. (US 6,526,335).

Regarding claim 1, Shah teaches a mobile voice communication device comprising: a wireless transceiver circuit for transmitting and receiving voice communications and for receiving data (see figs. 1-5); a digital processor (see figs. 1-3); and a memory storing application program code which when executed on the digital processor causes the mobile voice communication device to provide predetermined functionality to the user of the cellular phone, said predetermined functionality having basic features, said application program code having a deactivated state in which the mobile voice

communication device provides said basic features to the user (see figs. 1-5; col. 11, line 38 to col. 12, line 22). In this case, the state before the base station 200 activates the Enhanced Vocoder feature of the mobile reads on the deactivate state of the present invention. However, Shah does not disclose activating and deactivating enhanced features through a wireless transceiver circuit and by a transmitted key that was sent by a remote source to that mobile voice communication device. Carroll, in an analogous art, teaches a Network-based method and system for distributing service data for various types of service processes and models, including software applications, specifications, user's manuals, or parameters, etc, over a data transmission network. A remote service provider maintains a database of the data. The database is updated frequently. The remote service provider generates an activation code based on a product code submitted by a valid user. The activation code is then sent to the user for activating the downloaded service data (see figs. 1, 2; col. 7, line 60 to col. 8, line 9). Therefore, it would have been obvious to one of ordinary skilled in the art at the time of the invention was made to provide the above teaching of Carroll to Shah in order for the combined system to receive most updated additional software or programs through an activation done by the service provider as taught by Carroll.

Still regarding claim 1, Shah and Carroll do not mention having multiple levels of speech recognition in his peripheral (basic and enhanced levels or of toggling between multiple levels of speech recognition. Treyz, teaches a wireless communication system that can implement interaction of cellular communication system. The system is capable of

providing user selections between voice recognition levels such as being able to select different languages to use during voice control (see 96; col. 73, line 13 to col. 74, line 7). In addition, Treyz also teaches a software switch for toggling back and forth between a first state and a second state, wherein the first and second states represent a deactivated and activated basic and enhanced features respectively (see col. 73, line 57 to col. 74, line 7. In this case, the computer 14, taking voice commands from the user to switch from a native language (basic feature) to another language such as a foreign language (enhanced feature), must have a processor programmed with instructions to perform the switching and translation as commanded by the user. This teaching of Treyz arrives at the newly added limitation of claim 1.). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the above teaching of Treyz to Shah and Carroll in order to obtain a system as recited in claim 1 for the purpose of wirelessly providing user options (as taught by Carroll) to speak in their native language or foreign language as preferred when using the voice recognition function as taught by Treyz.

Regarding claim 4, the combination of Shah, Carroll and Treyz teaches the transmitted key is an activation key that switches the application program code from the deactivated state to the activated state (see Shah, figs. 1-5; col. 11, line 38 to col. 12, line 22).

Regarding claim 5, the combination of Shah, Carroll and Treyz teaches the transmitted key uniquely identifies the selected device among the plurality of wireless

communication devices (see Shah, col. 8, lines 17-48. Also see Treyz , col. 73, line 13 to col. 74, line 7).

Regarding claim 14, the claim includes limitations as that of claim 6, and therefore is interpreted and rejected for same reason set forth in the rejection of claim 6.

Regarding claim 9, the combination of Shah, Carroll and Treyz teaches prior to selecting one of the plurality of wireless communication devices on which to send the key, sending a message to the selected device for notifying a user that the enhanced features are available after a trial period for a fee as this is a well known marketing strategy of cellular service providers (see figs. 1,2; col. 7, line 60 to col. 8, line 9 of Carroll. Also see Treyz for clarification).

Regarding claim 11, the combination of Shah, Carroll and Treyz teaches that the key is an activation key that uniquely identifies the selected device among the plurality of wireless communication devices (see Shah, col. 8, lines 17-48. Also see Treyz for clarification).

Regarding claim 13, the combination of Shah, Carroll and Treyz teaches prior to selecting one of the plurality of wireless communication devices on which to activate the enhanced functionality, sending a message to that device providing notification of the

availability of the enhanced features for a fee (see Shah, col. 11, line 38 to col. 12, line 22. Also see Treyz for clarification).

Regarding claim 16, the rejections of claims 1 and 3 are herein incorporated.

Regarding claims 18,19,20,21,22, examiner takes official notice that the limitations recited in the claims are well known in the art. Also see Treyz for clarification.

Regarding claim 23, the rejection of claim 6 is herein incorporated.

Regarding claim 24, the combination of Shah, Carroll and Treyz teaches the digital key is transmitted by at least one of a carrier and a service provider (see Shah, figs. 1-5; col. 11, line 38 to col. 12, line 22. Also see Treyz for clarification).

Regarding claim 25, , the combination of Shah, Carroll and Treyz teaches he digital key corresponds to at least one of a password and an encrypted key (see Shah, figs. 1-5; col. 11, line 38 to col. 12, line 22).

Regarding claim 26, the combination of Shah, Carroll and Treyz teaches the enhanced functionality is activated by a carrier associated with the mobile communication device (see figs. 1,2; col. 7, line 60 to col. 8, line 9 of Carroll. Also see Treyz for clarification).

Regarding claims 27-28, 30, 31 the rejection of claim 9 is herein incorporated.

Regarding claim 46, Shah, Carroll and Treyz once combined teaches that the first state is the deactivated state and the second state is the activated state (see Treyz, col. 73, line 57 to col. 74, line 7; and see Carroll, col. 7, line 60 to col. 8, line 9).

Regarding claim 47, Shah, Carroll and Treyz once combined teaches that toggling from the second state to the first state is accomplished by receiving through the wireless transceiver circuit a second key that was sent by a remote source to that cellular phone (see Treyz, col. 73, line 57 to col. 74, line 7; and see Carroll, col. 7, line 60 to col. 8, line 9).

Conclusion

4. Applicant's amendment filed 02/18/09 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH D. DAO whose telephone number is (571)272-7851. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MATTHEW ANDERSON can be reached on 571-272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MINH DAO
/MINH D DAO/
Examiner, Art Unit 2618

/Matthew D. Anderson/
Supervisory Patent Examiner, Art Unit 2618